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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
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prevent clearly unwarranted
invasion of personal privacy**

File: WAC 01 215 53864 Office: CALIFORNIA SERVICE CENTER

Date: **FEB 28 2003**

IN RE: Petitioner:
Beneficiary:



Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K)
of the Immigration and Nationality Act, 8 U.S.C.
1101(a)(15)(K)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert R. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Pakistan, as the fiance(e) of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K).

The director denied the petition after determining that the petitioner and the beneficiary had not personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. The director further found that the petitioner had failed to establish that he warranted a favorable exercise of discretion to waive this statutory requirement.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

An alien who is the fiancée or fiance of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry

Section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiance(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties **have previously met in person within two years before the date of filing the petition**, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival
[emphasis added]

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on June 19, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 19, 1999 and ended on June 19, 2001.

With the initial filing of the petition, the petitioner indicated that he and the beneficiary had never met because the marriage was arranged and that due to strict islamic laws and customs, the parties are not allowed to meet prior to marriage. On appeal, the petitioner submits a letter further explaining that he has lived in the United States since 1978 and has not visited Pakistan since then; all of his relatives live outside of Pakistan and would find it financially difficult to attend a wedding in that country; he has no place to stay in Pakistan; and his parents are quite old and

cannot travel with him to Pakistan. He also reasserts that his and the beneficiary's parents arranged the marriage, both families are Muslim and must abide by muslim laws and Pakistani culture, and that dating of couples prior to marriage is not allowed.

Pursuant to 8 C.F.R. 214.2(k)(2), a director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance would:

- (1) Result in extreme hardship to the petitioner; or
- (2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

In the instant case, the petitioner has failed to establish that he warrants a favorable exercise of discretion to waive the requirement of a personal meeting. No credible documentary evidence has been presented to establish that a personal meeting between the petitioner and the beneficiary within the required time frame would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The petitioner has failed to establish that he and the beneficiary have personally met within the time period specified in section 214(d) of the Act, or that he warrants a waiver of the statutory requirement as a matter of discretion. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. 214.2(k)(2), the denial of this petition is without prejudice. If the petitioner and the beneficiary meet in person, the petitioner may file a new I-129F petition on behalf of the beneficiary. The petitioner will be required to submit evidence that he and the beneficiary have met within the two-year period that immediately precedes the filing of a new petition. Without the submission of documentary evidence that clearly establishes that the petitioner and the beneficiary have met in person during the requisite two-year period, the petition may not be approved unless the director grants a waiver of that requirement.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.